IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.827 OF 2005

Shri Vinayak Heramb Gurav .. Appellant
Versus
Shri Subhash Krishnaji Sumant .. Respondent

Ms Nayana Thatte h/f Ambar Joshi for appellant

CORAM : P.V.KAKADE, J.

DATE : 22ND AUGUST, 2005.

P.C.:

1. The appellant has filed this appeal against the judgment and order passed by Addl. District Judged, Baramati dated 23.11.2004 dismissing the appeal and confirming the judgment and order passed by Joint Civil Judge, Junior Division Baramati dated 14.8.2001 dismissing the plaintiff's suit for injunction against the defendant in respect of suit property i.e. house No.57A in CTS No.284 admeasuring 60 x 40 ft.

2. I have heard the learned advocate for the appellant. Perused the record.

3. The plaintiff came with the case that he was in

lawful possession of the suit property by virtue of agreement to sale executed by defendant no.2 in his favour at which time he was to be in possession and his possession is obstructed by other defendants and hence the suit for mandatory and perpetual injunction came to be filed. The defendants contested the suit, inter alia, submitting that the allegations were not correct and plaintiff was not in possession of the suit property and as such the suit was sought to be dismissed.

. The learned trial judge adjudicated the dispute on merits and came to the conclusion that the plaintiff had not proved his title and possession on the suit property on the strength of agreement to sale of the year 1990 and as such it was held that he was not in possession and consequently was not entitled for relief of perpetual and mandatory injunction. The appeal was carried to the District Court. The learned Addl. District Judge after hearing both the parties adjudicated the dispute on merits and came to the conclusion that the findings recorded by the lower court were legal and proper and dismissed the appeal. Hence the present appeal.

4. At the outset, it may be noted that there is absolutely no substantial question of law involved in this appeal. The plaintiff has come with the case that the defendant no.2 had become owner by adverse title of the suit property and in the year 1990 he executed agreement of sale and at the foot of which he was put in possession in suit property and therefore, he was lawful possession through defendant no.2, who was owner by adverse possession. The entire evidence on record, which is properly appreciated by both the courts below, shows that there is absolutely no evidence to hold that the defendant no.2, since deceased Bala, had become owner by adverse possession of the suit property. Further it is not established that said Bala, assuming for a moment he was a owner by adverse possession, had put the plaintiff in possession at the foot of suit transaction of 1990. The plaintiff has relied upon some Grampanchayat extracts showing his name in owners column of the year 2003-2004, which is absolutely no use. There is no other evidence in support of the plaintiff's claim. As noted earlier there is absolutely no substantial question of law involved in this appeal.

5. In the result the appeal has no merit and stands

dismissed. Consequently Civil Application no.1374 of 2005 also stands dismissed.